

BOARD OF APPEALS CASE NO. 4861

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BEFORE THE

APPLICANT: Henry Guercio

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ZONING HEARING EXAMINER

**REQUEST: Variance to permit a billboard
sign within the required setback;
1607 Belair Road, Benson**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 2/17/99 & 2/24/99

HEARING DATE: March 24, 1999

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Record: 2/19/99 & 2/26/99

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Henry Guercio, appeared before the Hearing Examiner requesting a variance to Sections 219-17 and 219-15(B) of the Harford County Code, to permit a sign within the required 25 foot front yard setback and a variance to Section 267-26(C)(6), to locate the sign within the recorded easement in a B3 District.

The subject parcel is located at 1607 Belair Road in the Third Election District. The parcel is identified as Parcel No. 230, in Grid 2-E, on Tax Map 55. The parcel contains .404 acres, more or less, all of which is zoned B3.

Mr. L. Gerald Wolff appeared and testified that he is a professional land surveyor and that he has been retained by the Applicant, Henry Guercio. Mr. Wolff said that the Applicant is requesting a variance to construct a sign with dimensions of 8 feet by 25 feet high. The witness said that the message area on the sign will be 8 feet by 10 feet and that the sign will be located at 1607 Belair Road. The Applicant owns the adjoining parcel known as 1609 Belair Road. Mr. Wolff said that the Applicant is proposing to locate the sign 10 feet from Belair Road in an existing utility easement. The witness submitted Applicant's Exhibit No. 3, wherein the Department of Public Works indicated that they were not opposed to the location of the sign within the utility easement along the frontage of 1607 Belair Road.

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Mr. Wolff said that the sign will be used for businesses located on both properties owned by the Applicant and that the subject property is unique because of the existence of the utility easement along the entire frontage of the property, as well as a pumping station and the building on the Applicant's adjoining property which is located very close to the road, preventing the location of the sign on that property.

Mr. Wolff said he did not feel approval of the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because the subject property is located in a commercial area and there are numerous other signs within the immediate area which are much larger than the sign proposed by the Applicant.

Mr. Henry Guercio appeared and testified that he was present for and heard the testimony of Mr. Wolff and that there is no place along the frontage of either parcel where the sign can be located except in the utility easement in front of 1607 Belair Road.

The Staff Report of the Department of Planning and Zoning recommends conditional approval and provides:

"When the original Staff Report was prepared, it was discovered that the site plan submitted by the Applicant did not reflect the utility easement across the front of the property. It was determined that a variance from Section 267-26(C)(6) would be necessary and this request would require authorization from the Department of Public Works. The Department of Public Works has reviewed the request and determined that the sign should not impact the easement."

CONCLUSION:

The Applicant is requesting a variance to Sections 219-17 and 219-15(B) of the Harford County Code, to permit a sign within the required 25 foot front yard setback, a variance from the requirements of the Code to Section 267-26(C)(6) to locate the billboard within a recorded easement.

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Section 219-15(B) provides:

“Location. Billboards shall not be permitted to be erected within three hundred (300) feet of any public square or the entrance to any public park, public, private or parochial school, library, church or similar institution. All such signs shall be set back from the front property line the distance required for a principal building in the zoning district in which located. No billboard shall be permitted to be erected within one hundred (100) feet of a road intersection unless the base of the sign is not less than ten (10) feet above ground level or road surface, whichever is higher. No billboard shall be erected within six hundred sixty (660) feet of any highway which is part of the interstate highway system.”

Section 219-17 provides:

“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

The Applicant is also requesting a variance from Section 267-26(C)(6), which provides:

“No accessory use or structure, except fences, shall be located within any recorded easement area.”

The uncontradicted testimony of the Applicant and his expert witness was that the subject property is unique because of the existence of a 25 foot utility easement across the entire front of the subject parcel and also the location of an existing building on the adjoining parcel which the Applicant also owns. The evidence also indicates an existing pumping station is located along U.S. Route 1.

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It is the finding of the Hearing Examiner that the only feasible location for the sign is in the area as proposed by the Applicant within the utility easement 10 feet from the property line. Since the area proposed for location of the sign is within a utility easement, the Department of Planning and Zoning requested that the Department of Public Works determine whether the location of the sign within the utility easement would have an adverse impact on the easement. The Department of Public Works has submitted a memorandum, marked "Applicant's Exhibit No. 3", indicating that the easement will not be impacted.

Therefore, it is the recommendation of the Hearing Examiner the variance to locate the sign 10 feet from Belair Road and within the utility easement be approved since it is the only feasible location for the sign based on the location of the existing buildings, a pumping station, and the utility easement itself. It is, further the finding of the Hearing Examiner that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code due to the existence of a number of other commercial signs much larger in size than the sign proposed by the Applicant.

The approval of the variances shall be subject to the condition that the Applicant obtain all necessary permits and inspections for the sign.

Date APRIL 9, 1999

L. A. Hinderhofer
Zoning Hearing Examiner